

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

MARY REFERMAT,

Plaintiff,

v.

LANCASTER CENTRAL SCHOOL DISTRICT,

Defendant.

14-CV-0712-RJA-MJR
ORDER

The Defendant, Lancaster Central School District, has filed a notice of interlocutory appeal from this Court's August 1, 2018 Decision and Order (Docket No. 50) that, as relevant here, denied the District's motion for summary judgment. At a conference on August 27, 2018, the Court scheduled trial for May 2019.

Because "the filing of a notice of appeal is an event of jurisdictional significance," *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982), and because a federal court has "an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party," *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006), the Court *sua sponte* considers whether the District's notice of appeal divested the Court of subject-matter jurisdiction.

"A district court's denial of summary judgment is ordinarily not an appealable 'final decision' within the meaning of 28 U.S.C. § 1291," and none of the limited exceptions to the final-decision rule—such as the collateral-order doctrine—appears to be implicated by the Court's August 1, 2018 Decision and Order. *Tolbert v. Queens College*, 164 F.3d 132, 138 (2d Cir. 1999). *See also Plumhoff v. Rickard*, 134 S. Ct. 2012, 2018 (2014) ("An order denying a motion for summary judgment is generally not a final decision within the

meaning of § 1291 and is thus generally not immediately appealable.”) The District’s notice of appeal therefore appears to be premature.

Although the filing of a notice of appeal typically divests a district court of subject-matter jurisdiction, see *Griggs*, 459 U.S. at 58, a premature notice of appeal does not do so. See *United States v. Rodgers*, 101 F.3d 247, 251-52 (2d Cir. 1996). The Court therefore concludes that, notwithstanding the District’s notice of interlocutory appeal, the Court retains subject-matter jurisdiction over this case. Absent order of the Second Circuit, trial will commence, as scheduled, on May 7, 2019.

SO ORDERED.

Dated: August 31, 2018
Buffalo, New York

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE